IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 207 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME TAX - Applicant(s)
Versus
NAVDEEP POLYMERS PVT. LTD. - Respondent(s)

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Appearance :
MR TANVISH U BHATT for Applicant(s) : 1,
NOTICE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 13/10/2005

ORAL JUDGMENT

(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)

1 The Income Tax Appellate Tribunal, Ahmedabad Bench 'C' has referred the following question under Section 256(1) of the Income Tax Act,1961 (the Act) at the instance of the Commissioner of Income Tax.

> *"Whether, the Appellate Tribunal is right in law and on facts on directing the Income tax Officer to allow depreciation at the rate of 30% on diesel generating set?"*

2 The Assessment Year is 1984-85.

3 Heard Mr.Tanvish U.Bhatt, learned Standing

Counsel on behalf of the applicant-revenue. Though served there is no appearance on behalf of the respondent-assessee.

4 As can be seen from the order of the Tribunal, the Tribunal has relied upon its own decision in the case of C.I.T. vs. Nachmo Marketing Pvt.Ltd. Mr.Bhatt has pointed out that the decision in the case of Nachmo Marketing Pvt.Ltd. had been carried by way of reference before this Court, and this Court by order dated 21/06/2005 in Income Tax Reference No.187 of 1993 had decided the controversy in question in favour of the revenue.

5 In the circumstances, it is not necessary to state the facts and contentions in detail. For the reasons stated in the decision dated 21/06/2005 rendered by this Court in Income Tax Reference No.187 1993 the question referred is

answered in the negative i.e. in favour of the revenue and against the assessee.

6 The Reference is disposed of accordingly. There shall be no order as to costs.

Sd/- Sd/-
(D.A.Mehta,J) (H.N.Devani,J)

m.m.bhatt